



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 18 2016

OFFICE OF  
CIVIL RIGHTS

The Honorable Jenny R. Yang  
Chair  
U.S. Equal Employment Opportunity Commission  
1801 L Street, NW  
Washington, D.C. 20507

Dear Madame Chair:

I am pleased to send you the enclosed copy of the U.S. Environmental Protection Agency's (EPA) Fiscal Year 2015 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174.

This report provides information regarding the number of cases arising under the respective areas of law cited in the No FEAR Act where discrimination was alleged; the amount of money required to be reimbursed by EPA to the Judgment Fund in connection with such cases; the number of employees disciplined for discrimination, retaliation, harassment or any other infractions of any provision of law referred to under the Act; an analysis of trends and knowledge gained; and accomplishments.

An identical letter has been sent to each entity designated to receive this report as listed in Section 203 of the No FEAR Act. The U.S. Attorney General and the Director of the U.S. Office of Personnel Management will also be sent a copy of the report.

If you have any questions, please contact me, or your staff may contact Cynthia Darden, Assistant Director of the Office of Civil Rights, at (202) 564-1587.

Sincerely,

A handwritten signature in black ink, reading "Velveta Golightly-Howell", is positioned above the printed name.

Velveta Golightly-Howell  
Director

Enclosure

**U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

Fiscal Year 2015

Annual Report to Congress  
Pursuant to the  
Notification and Federal Employee  
Antidiscrimination and Retaliation  
Act of 2002

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## **I. EXECUTIVE SUMMARY**

The U.S. Environmental Protection Agency (EPA or Agency) provides its Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174. As required, this report includes information related to the number of cases in Federal court pending or resolved in fiscal year (FY) 2015 and, in connection with those cases, their disposition; reimbursement(s) to the Judgment Fund; and the number of employees disciplined and the nature of the disciplinary action taken.

During FY 2015, there were a total of 13 cases pending before Federal courts. Among these cases, there were eight (8) claims of violation of Title VII, seven (7) claims of violation of the Rehabilitation Act, five (5) claims of violation of the Age Discrimination in Employment Act, and one (1) claim of violation of 5 U.S.C. 2302.

Final Agency Actions involving a finding of discrimination may be issued on the record or following an Equal Employment Opportunity Commission (EEOC) Administrative Hearing. The No FEAR Act requires Federal agencies to post the total number of final actions involving a finding of discrimination, along with the issues in and bases for such complaints. In 2015, EPA had one (1) finding of discrimination following an EEOC Administrative Hearing.

EPA is dedicated to establishing and maintaining a model Civil Rights Program that serves as an example for all Federal agencies. EPA's commitment to this goal is reflected in the subject report which the Agency respectfully submits for review.

## **II. BACKGROUND**

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," or, as it is more commonly known, the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively, if they practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

Section 203 of the No FEAR Act requires that each Federal agency submit an annual Report to Congress not later than 180 days after the end of each fiscal year. Agencies must report on the number of Federal court cases pending or resolved in each fiscal year and arising under each of the respective areas of law specified in the Act in which discrimination or retaliation was alleged. In connection with those cases, agencies must report their status or disposition; the amount of money required to be reimbursed to the Judgment Fund; and the number of employees disciplined. Agencies must also report on any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual, or committed a prohibited personnel practice; any employees disciplined under such a policy for conduct inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws; and an analysis of the data collected relative to trends, causal analysis, and other information.

The Act imposes additional duties upon Federal agency employers intended to reinvigorate their longstanding obligation to provide a work environment free of discrimination and retaliation. The additional obligations contained in the No FEAR Act can be broken down into four (4) categories:

- A Federal agency must reimburse the Judgment Fund for payments made to employees, former employees, or applicants for Federal employment because of actual or alleged violations of Federal employment discrimination laws, Federal whistleblower protection laws, and retaliation claims arising from the assertion of rights under those laws.
- An agency must provide annual notice to its employees, former employees, and applicants for Federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.
- At least every two (2) years, an agency must provide training to its employees, including managers, regarding the rights and remedies available under the employment discrimination and whistleblower protection laws.
- Quarterly, an agency must post on its public website summary statistical data pertaining to Equal Employment Opportunity (EEO) complaints filed with the agency.

The President delegated responsibility to the Office of Personnel Management (OPM) for issuance of regulations governing implementation of Title II of the No FEAR Act. OPM published final regulations on the reimbursement provisions of the Act on May 10, 2006. Final regulations to carry out the notification and training requirements of the Act were published on July 20, 2006, and OPM published the final regulations to implement the reporting and best practices provisions of the No FEAR Act on December 28, 2006. The EEOC published its final regulations to implement the posting requirements of Title III of the No FEAR Act on August 2, 2006. The EPA has prepared the subject report based on the provisions of the No FEAR Act in accordance with OPM and EEOC's final regulations.

### **III. DATA**

#### **a. Civil Cases**

Section 203(a)(1) of the No FEAR Act requires that agencies include in their Annual Report "the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged."

Section 724.302 of OPM's final regulations on reporting and best practices clarifies section 203 (1) of the No FEAR Act, stating that agencies report on the "number of cases in Federal Court [district and appellate] pending or resolved...arising under each of the respective provisions of the Federal Antidiscrimination laws and Whistleblower Protection Laws applicable to them...in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved."

During FY 2015, there were a total of thirteen (13) cases pending before Federal courts. Among these cases, there were eight (8) claims of violation of Title VII, seven (7) claims of violation of the Rehabilitation Act, five (5) claims of violation of the Age Discrimination in Employment Act, and one (1) claim of violation of 5 United States Code 2302, Prohibited Personnel Practices.

Of the thirteen (13) cases noted above, one (1) was settled during the reporting period. As part of that settlement, the agency agreed to pay a lump sum amount of \$17,000. This amount was paid directly by the agency and, therefore, no reimbursement to the Judgment Fund was required.

Another case involved a jury finding of retaliation against the agency. In that case, the jury awarded the plaintiff \$200,000 in compensatory damages and \$27,500 in back pay. The agency is awaiting a final order to be issued by the court on the amount of attorney's fees owed by the agency. A final decision on whether the agency will appeal the jury's finding in the case is pending.

Of the remaining eleven (11) cases, the agency prevailed on five (5) after filing dispositive motions with the court. An appeal on the dismissal of one (1) of those cases is pending. The agency is awaiting decisions on four (4) other cases in which it filed dispositive motions. Two (2) other cases are currently in pre-trial proceedings.

#### **b. Reimbursement to the Judgment Fund**

During FY 2015, the agency was not required to reimburse the Judgment Fund.

#### **c. Disciplinary Actions (5 Code of Federal Regulations (C.F.R.) § 724.302 (a)(3) & (5))**

There were no employees disciplined in FY 2015, in connection with any cases described in paragraph (a) above, or for any other conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes prohibited personnel practices. Discipline as defined in § 724.102 means any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal.

#### **d. Final Year-End Data Posted Under Section 301(c)(1)(B)**

The final year-end data posted pursuant to section 301(c)(1)(B) of the No FEAR Act are included in Appendix 1. The final year-end data indicate that during FY 2015, there was a twenty-one percent (21%) increase in the number of formal complaints filed compared to FY 2014. In FY 2014, forty-eight (48) formal complaints of discrimination were filed with the agency. During FY 2015, there were fifty-eight (58) new administrative complaints of discrimination filed by fifty-seven (57) employees or applicants for employment. One (1) agency employee filed more than one (1) complaint during the reporting period. Based on a five (5) year trend analysis, the relatively low number of complaints filed in FY 14 was an anomaly that the agency attributed to FY 2014 being the only year within that trend analysis to report a

large separation of employees, including those employees participating in early out/buy-out retirement initiatives.

During FY 2015, EPA's Office of Civil Rights (OCR) saw a slight increase in the investigation timeframe by five percent (5%) (245.08 days in FY 2014 to 257.40 days in FY 2015). During FY 2015, EPA had one (1) finding of discrimination following an EEOC Administrative Hearing. FY 2015 complaint totals can be found in their entirety at Appendix 1 of this report.

**e. Policy Description on Disciplinary Actions (5 C.F.R. § 724.302(a)(6))**

The 2014 Agency EEO Policy addresses a variety of topics, including prohibition of discrimination in the workplace, and it includes a reminder to all employees that the agency will review any finding of discrimination and take disciplinary or corrective action, when appropriate. The EEO Policy, as well as information on addressing harassment and reasonable accommodation, was discussed in EPA's mandatory Successful Leaders Program for all new Agency supervisors. The 2014 EEO Policy can be found in its entirety at Appendix 3 of this report.

Additionally, EPA Order 3110.6B, *Adverse Actions*, EPA Order 3120.1B, *Conduct and Discipline*, EPA Order 3120.2, *Conduct and Discipline, Senior Executive Service*, and applicable collective bargaining agreements, provide guidance to managers about the type of disciplinary actions that may be taken, when appropriate, in response to a finding of discriminatory behavior or conduct. These actions may range from informal corrective actions, including oral admonishments and written warning, to more formal disciplinary actions such as a suspension without pay or removal to more formal disciplinary actions such as reprimands, suspensions without pay, reductions in grade or pay, up to removal.

EPA has an ongoing commitment to continue to include clear expectations about EEO in performance standards for managers. EPA has maintained revised Senior Executive Service standards that not only focus on preventing discrimination in hiring activities and promoting merit systems principles, but also require senior leaders to be personally involved in leading and implementing EEO and civil rights initiatives consistent with applicable laws. In addition, at the end of every performance cycle, the Director of OCR, Performance Review Board members, and Executive Review Board members evaluate management self-assessments to ensure that the respective rating is an appropriate reflection of the accomplishments listed.

**f. No FEAR Act Training Plans (5 C.F.R. § 724.302 (a)(9))**

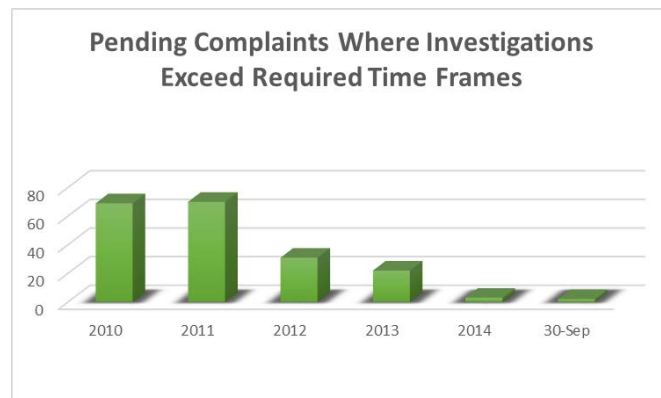
No Fear Act training was not required for current agency employees in FY 2015. However, new employees were required to take the training within their first 90 days of onboarding. For FY 2016, agency employees are required to complete the No Fear training no later than December 31, 2016. The agency is committed to achieving a 100% completion rate for current employees for FY 2016.

#### **IV. ANALYSIS OF TRENDS, CAUSAL ANALYSIS AND PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE (5 C.F.R. § 724.302 (a)(7))**

At the conclusion of FY 2015, the bases of alleged discrimination most often raised were: (1) retaliation; (2) age; and (3) sex. The fifty-eight (58) EEO complaints filed in EPA in FY 2015 contained thirty (30) allegations of retaliation, twenty-eight (28) allegations of age discrimination, and twenty-seven (27) allegations of sex discrimination. While retaliation remains the top basis alleged in complaints filed, it should be noted that retaliation, age and sex are the top three (3) bases most frequently alleged in discrimination complaints throughout the entire Federal workforce.<sup>1</sup>

The data show that the 0.36% of the agency workforce of 15,566 employees that have filed complaints falls well below the last reported government-wide average of 0.5% of the workforce that did.<sup>2</sup> EPA continues to stress training as a method for ultimately reducing the number of Federal court judgments, awards, and formal complaints, by having managers and supervisors continuously expand their knowledge of their responsibilities to promote equal employment opportunity. Additionally, EPA promotes training to help employees understand they also have a role in creating a workplace that promotes EEO.

EPA completed investigations for complaints pending during FY 2015 with an average processing time of 257 days with only two (2) investigations exceeding required time frames. As discussed in the FY 2012 No Fear Report, and implemented effectively during FY 2013 and 2014, the agency's revamped, streamlined investigative process has significantly improved the proportion of cases adjudicated within the applicable timeframes.



During FY 2015, EPA's OCR procedurally dismissed six (6) complaints. The average time to process a dismissal was ninety-nine (99) days, reflecting a 62% decrease from the FY 2014 processing average of 258 days pending prior to dismissal. Contributing factors include the addition of a second OCR attorney advisor.

#### **V. ADJUSTMENTS TO BUDGET (5 C.F.R. § 724.302(a)(2)(ii))**

As reported, during FY 2015, the agency was required to reimburse the Judgment Fund in connection with two (2) settled cases. One settlement involved a payment of \$650,000, while the

<sup>1</sup> As reported in FY 2014 Report of the Federal Workforce. <http://www.eeoc.gov/federal/reports/fsp2014/index.cfm>.

<sup>2</sup> As reported in FY 2014 Report of the Federal Workforce. <http://www.eeoc.gov/federal/reports/fsp2012/index.cfm>.



other settlement involved a total payment of \$670,000, \$170,000 of which was designated for the payment of attorneys' fees.

**VI. ACTIONS PLANNED OR TAKEN TO IMPROVE COMPLAINT OR CIVIL RIGHTS PROGRAMS (5 C.F.R. § 724.302 (a)(7)(iv))**

EPA's Civil Rights program has taken several steps to strengthen EPA's commitment to civil rights and equal employment opportunity in the workplace:

- EPA will continue to utilize the newly created, internal FAD management plan to strategically reduce the agency FAD docket
- OCR is focused on improving processing time in accepting/dismissing complaints. In addition to imposing time elements in its EEO professionals' performance plans, the agency has two full-time attorneys among its staff in the civil rights office to review all formal complaints for acceptance/dismissal, write all dismissal decisions, and provide EEOC case law in its analyses to support its dismissal decisions.
- The EEO Training Committee continues to offer monthly training teleconferences to all EEO Counselors. The training has been presented by the EEO community, internal EPA partners and outside vendors. The timeliness and quality of EEO Counselors' Reports continue to show marked improvement and the utilization of and success rate for ADR have all significantly improved.
- EPA will increase its efforts to market the ADR program during the informal phase of EEO counseling, via centralized EEO intake. OCR anticipates that using ADR in this way will help reduce costs associated with adjudicating formal complaints. OCR will continue using the shared neutrals programs in regions at no cost to EPA. OCR will market and promote ADR as part of overall agency policy.
- The agency is currently developing a formal ADR program that will focus on increasing its offer rate in the formal complaint process to attain an anticipated increase in its resolution rate. This program will continue to promote resolution at the lowest possible level by reengaging complainants and managers during a complaint's investigative stage and seek resolution prior to completing the investigation.
- OCR will continue to monitor and evaluate its current Standard Operation Procedures for investigations and its Statement of Work with the United States Postal Service, its investigative contractor. OCR will make adjustments to promote the efficiency of the investigative process with the goal of completing investigations within the 180 day requirement.

- To meet delineated goals, OCR will reevaluate its review and routing processes to determine the most efficient methods for obtaining legal sufficiency reviews while aggressively seeking to meet the regulatory requirement.
- Within the EPA, every member of the Senior Executive Service has had a performance standard related to equal employment opportunity and diversity in the workplace for several years. Senior managers must outline the specific related initiatives and actions they have personally undertaken and the results or effectiveness of those actions. At the end of every performance cycle, the Director of the Office of Civil Rights, Performance Review Board members, and Executive Review Board members review these managers' self-assessments to verify that the respective rating for the EEO performance standard is a reflection of the accomplishments listed.
- All EPA investigators and counselors received the required annual training and/or refresher training in accordance with Management Directive 110.
- EPA works to comply with orders from Administrative Judges in a timely manner, and this is a factor that is included in the performance standard of the Assistant Director, Office of Civil Rights, Employment Complaints Resolution Staff (ECRS). In addition, EPA has established systems to ensure that the agency initiates any monetary or other relief in a timely manner.
- OCR posts all No FEAR statistics on the OCR website on a quarterly basis.
- OCR management members make presentations during the monthly new employee orientations to ensure that all new employees are notified of the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws. New employees are also reminded of their obligation to complete No Fear Training within ninety (90) days of onboarding.
- The Civil Rights Director and EEO Officials across the agency participate in briefings, listening sessions, and brainstorming sessions to discuss EEO with managers, senior leaders and employees in order to identify and address any potential barriers and specific action items that can continue to improve the agency's EEO and Civil Rights program.

# APPENDIX 1

## Equal Employment Opportunity Data Posted Pursuant to the No Fear Act: EPA (and below)

*For 4th Quarter 2015 for period ending September 30, 2015*

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2015Thru09-30
	2010	2011	2012	2013	2014	
Number of Complaints Filed	70	64	79	62	48	58
Number of Complainants	63	61	77	59	45	57
Repeat Filers	7	3	2	3	3	1

Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2015Thru09-30
	2010	2011	2012	2013	2014	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	39	25	40	22	23	25
Color	14	10	13	7	10	11
Religion	5	2	9	4	3	5

Reprisal	47	39	44	31	28	30
Sex	28	29	42	27	14	27
PDA	0	0	0	0	0	0
National Origin	14	10	13	12	10	11
Equal Pay Act	0	2	1	1	1	2
Age	28	21	37	22	22	28
Disability	21	24	25	19	18	18
Genetics	0	0	0	0	0	1
Non-EEO	0	1	8	7	6	6
<b>Complaints by Issue</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2015Thru09-30</b>
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	
Appointment/Hire	2	1	5	5	7	5
Assignment of Duties	18	12	12	5	5	16
Awards	6	2	5	0	3	4
Conversion to Full-time	0	0	2	0	0	0
<b>Disciplinary Action</b>						
Demotion	0	0	0	0	0	0
Reprimand	3	3	2	3	6	2
Suspension	2	3	2	6	4	0

Removal	0	1	2	0	3	2
Other	3	2	4	2	0	0
Duty Hours	1	3	3	2	0	0
Evaluation Appraisal	14	11	21	9	5	5
Examination/Test	0	1	0	0	0	0
<b>Harassment</b>						
Non-Sexual	35	30	32	22	19	28
Sexual	1	1	1	2	1	3
Medical Examination	0	0	0	0	0	0
Pay (Including Overtime)	3	4	4	1	0	1
Promotion/Non-Selection	24	18	26	10	8	5
<b>Reassignment</b>						
Denied	4	3	3	0	2	3
Directed	6	1	5	2	2	1
Reasonable Accommodation	2	8	7	9	3	4
Reinstatement	0	0	0	0	0	0
Retirement	0	0	2	1	2	1
Termination	4	9	5	4	1	1
Terms/Conditions of Employment	16	10	19	12	11	10
Time and Attendance	6	6	18	7	2	8
Training	6	4	11	2	6	6
Other	0	0	7	2	0	0

Processing Time	Comparative Data					
	Previous Fiscal Year Data					2015Thru09-30
	2010	2011	2012	2013	2014	
Complaints pending during fiscal year						
Average number of days in investigation	285.43	274.33	326.57	311.07	245.08	257.40
Average number of days in final action	310.67	449.95	409.47	198.44	289.65	321.81
Complaints pending during fiscal year where hearing was requested						
Average number of days in investigation	213.67	263.57	324.42	314.44	249.50	259.25
Average number of days in final action	0	0	326.57	35.00	12.00	36.00
Complaints pending during fiscal year where hearing was not requested						
Average number of days in investigation	339.25	312.00	328.83	306.58	233.87	253.36
Average number of days in final action	310.67	449.95	467.50	218.88	375.08	607.62
Complaints Dismissed by Agency	Comparative Data					
	Previous Fiscal Year Data					2015Thru09-30
	2010	2011	2012	2013	2014	
Total Complaints Dismissed by Agency	5	6	10	6	9	6

Average days pending prior to dismissal				53	441	212	123	258	99			
Complaints Withdrawn by Complainants												
Total Complaints Withdrawn by Complainants				2	3	12	19	3	8			
Total Final Agency Actions Finding Discrimination	Comparative Data											
	Previous Fiscal Year Data										2015Thru09-30	
	2010		2011		2012		2013		2014			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		0		0		1		1	
Without Hearing	0	0	0	0	0	0	0	0	0	0	0	0
With Hearing	0	0	0	0	0	0	0	0	1	100	1	100
Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2015Thru09-30	
Note: Complaints can be filed alleging multiple bases.The sum of the bases may not equal total complaints and findings.	2010		2011		2012		2013		2014			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		1		0		1		1	
Race	0	0	0	0	0	0	0	0	1	100	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0

Reprisal	0	0	0	0	1	100	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	1	100	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	1	100	0	0
Disability	0	0	0	0	0	0	0	0	0	0	1	100
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings After Hearing</b>	0		0		0		0		1		1	
Race	0	0	0	0	0	0	0	0	1	100	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	1	100	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	1	100	0	0
Disability	0	0	0	0	0	0	0	0	0	0	1	100
Genetics	0	0	0	0	0	0	0	0	0	0	0	0



Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings Without Hearing	0		0		1		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	1	100	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings of Discrimination Rendered by Issue	Comparative Data											
	Previous Fiscal Year Data										2015Thru09-30	
	2010		2011		2012		2013		2014			
	#	%	#	%	#	%	#	%	#	%		
Total Number Findings	0		0		1		0		1		1	
Appointment/Hire	0	0	0	0	0	0	0	0	1	100	0	0

Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	1	100
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	1	100	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												

Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	1	100
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings After Hearing</b>	0		0		0		0		1		1	
Appointment/Hire	0	0	0	0	0	0	0	0	1	100	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0

Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	1	100
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	1	100
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0

Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings Without Hearing</b>	0		0		1		0		0		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0

Harassment												
Non-Sexual	0	0	0	0	1	100	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0

<b>Pending Complaints Filed in Previous Fiscal Years by Status</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2015Thru09- 30</b>
	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	
Total complaints from previous Fiscal Years	52	61	59	87	87	87
Total Complainants	47	48	52	79	82	78
<b>Number complaints pending</b>						
Investigation	39	51	20	11	3	1
ROI issued, pending Complainant's action	0	0	3	3	0	0
Hearing	25	36	38	59	65	68
Final Agency Action	37	19	12	22	20	20
Appeal with EEOC Office of Federal Operations	1	4	8	15	13	14
<b>Complaint Investigations</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2015Thru09- 30</b>
	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	
Pending Complaints Where Investigations Exceed Required Time Frames	69	70	31	22	3	2

## APPENDIX 2



### THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

DEC 15 2014

#### MEMORANDUM

**SUBJECT:** Anti-Harassment Policy Statement

**FROM:** Gina McCarthy

A handwritten signature in dark ink, appearing to read "Gina McCarthy", is written over the "FROM:" line.

**TO:** All Employees

I want to reaffirm the U.S. Environmental Protection Agency's commitment to prohibit harassment of any kind, as clearly stated in our agency's anti-harassment policy. Harassment is unlawful when it is directed at an individual because of a lawfully protected basis and is sufficiently severe or pervasive that it creates a hostile work environment or takes the form of a tangible employment action. It is EPA policy to ensure that appropriate measures are implemented to prevent harassment, either sexual or nonsexual, in the workplace and to correct harassing conduct before it becomes severe or pervasive. EPA policy also strictly prohibits any retaliation against an employee who reports a concern about workplace harassment or assists in any inquiry about such a report.

For the purposes of this policy, unlawful harassment is defined as any unwelcome verbal or physical conduct based on race; color; sex, including pregnancy and gender identity/expression; national origin; religion; age; prior protected Equal Employment Opportunity activity; protected genetic information; sexual orientation or status as a parent when:

- the behavior can reasonably be considered to adversely affect the work environment; or
- an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

Sexual harassment can be either a form of harassment based on a person's sex that need not involve conduct of a sexual nature or harassment involving any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made explicitly or implicitly a term or condition of an employee's job, pay or career;
- submission to or rejection of such conduct by an employee is used as a basis for career or employment decisions affecting that employee; or
- such conduct has the purpose or effect of unreasonably interfering with an employee's performance or creates an intimidating, hostile or offensive environment.

Sexual harassment need not involve members of the opposite sex and can be perpetrated by and against members of either sex.



Examples of workplace harassment include:

- Oral or written communications that contain offensive name calling, jokes, slurs, negative stereotyping, hostility or threats. This includes comments or jokes that are distasteful or targeted at individuals or members of the lawfully protected bases set forth above.
- Nonverbal conduct, such as staring, leering and giving inappropriate gifts.
- Physical conduct, such as assault or unwanted touching.
- Visual images, such as derogatory or offensive pictures, cartoons or drawings. Such prohibited images include those in hard copy or electronic form.

The EPA does not permit harassment by or against anyone in the workplace. This includes any employee, applicant for EPA employment, grantee, contractor, Senior Environmental Employment enrollee or Federal Advisory Committee Act member. Workplace harassment should be reported immediately by the affected person to a first-line supervisor, a higher-level supervisor or manager in her or his chain of command, the Office of Inspector General or Labor and Employee Relations staff, as appropriate. Supervisors, in consultation with their human resources or legal offices, must conduct prompt, thorough and impartial inquiries.

If necessary and to the extent possible, measures must be taken to safeguard the anonymity of employees who file complaints. If management, in consultation with legal counsel, determines that harassment has occurred, it must be corrected as soon as possible. Harassing conduct by EPA employees need not rise to the level of unlawful harassment for it to constitute misconduct subject to corrective or disciplinary action.

In addition, EPA employees or applicants for employment may also use the complaint process established by the U.S. Equal Employment Opportunity Commission to file a complaint of harassment based on race, color, sex, religion, national origin, age, disability, prior protected EEO activity and protected genetic information for individual redress. To invoke that process, EPA employees and applicants must contact an EEO counselor within 45 days of an alleged incident of harassment. Reporting harassment to a supervisor in accordance with the previous paragraph does not satisfy this requirement and does not invoke the EEOC's process. EPA employees or applicants for employment may also report harassment based on sexual orientation and status as a parent to the EPA Office of Civil Rights.

Should you have any questions or need additional information about this policy, please contact the EPA Office of Human Resources at (202) 564-4646 or the EPA Office of Civil Rights at (202) 564-7272. Additional resources are available by visiting [intranet.epa.gov/civilrights/lawsandstatus.htm](http://intranet.epa.gov/civilrights/lawsandstatus.htm).

## APPENDIX 3



### THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

DEC - 3 2014

#### MEMORANDUM

**SUBJECT:** 2014 Equal Employment Opportunity Policy Statement

**FROM:** Gina McCarthy 

**TO:** All Employees

I am proud to reaffirm the U.S. Environmental Protection Agency's commitment to equal employment opportunity in the workplace. Fostering a diverse and inclusive work environment through equal employment is essential to our work and our service to the American people.

The EPA cannot and will not tolerate discrimination based on race; color; religion; sex, including pregnancy, sex stereotyping, gender identity or gender expression; national origin; sexual orientation; physical or mental disability; age; protected genetic information; status as a parent; marital status; political affiliation; or retaliation based on previous EEO activity. In addition, the EPA will not tolerate any type of harassment – either sexual or nonsexual – of any employee or applicant for employment. Employment decisions, including those related to hiring, training or awards, must be made in accordance with the merit-system principles in 5 U.S.C. § 2301.

I expect our management team to continue to provide first-class leadership in support of equal-employment opportunities. I ask that EPA managers and employees take responsibility for treating each other with dignity and respect, reporting discriminatory conduct and preventing all types of discrimination, including harassment.

The EPA promotes the use of alternative-dispute-resolution methods to resolve workplace disputes or EEO complaints. Managers are reminded that their participation in agency-approved alternative-dispute-resolution efforts to resolve employee EEO complaints is required, absent extraordinary circumstances as determined by the Office of Civil Rights' director or designee.

Any employee, manager or applicant for employment who believes he or she has been subjected to discrimination has a right to seek redress within 45 calendar days of the alleged discriminatory event by contacting the EPA's Office of Civil Rights Employment Complaints Resolution staff at (202) 564-7272 or an EEO officer at the regional or laboratory level. The agency will review any finding of discrimination and, when necessary, take appropriate disciplinary or corrective action.

A professional, productive and inclusive workplace is essential to the EPA's mission to protect human health and the environment. Unlawful discrimination in the workplace, including retaliation and harassment, undermines the achievement of our agency's mission. I appreciate your shared commitment to equal opportunity at the EPA and look forward to continuing our work together.